

SENATE TRANSPORTATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2006 Legislative Session

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IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005, Idaho Administrative Bulletin, Vol. 05-10, pages 670 through 685.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randy Nilson at (208) 334-7530.

DATED this 2nd day of November, 2005.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

The Following Notice Was Published With The Proposed Rule

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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 010: Amend Motor Fuels Rule 010 by adding a definition for an Indian-owned retail outlet. This allows Idaho-licensed fuel distributors to identify which retailers qualify as Indian-owned retail outlets in order to make nontaxable fuel sales to them. It also helps consumers identify which retailers do not charge the Idaho motor fuels tax because they are Indian-owned retail outlets.

Rule 130: Amend Motor Fuels Rule 130 to add “delivered to an Indian-owned retail outlet tax not collected” to the list of disbursements in Paragraph 130.01.c., and inform Idaho-licensed fuel distributors that the deduction in Paragraph 130.01.j., is “limited to 10% of the total volume.”

Rule 140: Amend Motor Fuels Rule 140 to clarify that only taxable and nontaxable fuel sales can be included in the calculation of fuels tax bad debt when applying partial payments on a first-in/first-out or prorated basis. Inform Idaho-licensed fuel distributors of the statute of limitations for fuels tax bad debt claims.

Rule 150: Amend Motor Fuels Rule 150 to require licensed fuel distributors who use credit card receipts as their sales invoices to comply with the invoice documentation requirements in this rule.

Rule 170: Amend Motor Fuels Rule 170 by removing “federal government” because they cannot use dyed low-sulfur diesel in their motor vehicles on a highway and update who can use low-sulfur dyed diesel fuel in their motor vehicles.

Rule 180: Amend Motor Fuels Rule 180 to remove the requirement for a statement in Subsection 180.02 that is not required for a licensed fuel distributor to receive a refund.

Rule 270: Amend Motor Fuels Rule 270 to add a new paragraph that states no Idaho motor fuels tax is paid when fuel is purchased from an Indian-owned retail outlet. Add the word “Idaho” in front of “tax-paid fuel.”

Rule 292: Amend Motor Fuels Rule 292 to add language that states no Idaho motor fuels tax is paid when fuel is purchased from an Indian-owned retail outlet and to add language for a

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standard power take-off (PTO) or auxiliary engine allowance for concrete pumping trucks.

Rule 400: Amend Motor Fuels Rule 400 to correct a reference to an Idaho Code section that was renumbered in a previous year.

Rule 510: Amend Motor Fuels Rule 510 to replace the word “biodiesel” with the phrase “biodiesel blended fuels.”

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 24th day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS (RULE 010).

The definitions provided by statute, including the definitions in Section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions shall apply. (6-23-94)

01. Bond. A person required to post a bond may, instead of posting a surety bond, deposit with the State Tax Commission any of the following amounts equivalent to the amount of the bond required: (3-30-01)

a. Lawful money. Lawful money of the United States. Cash bonds must be submitted as a cashier's check, money order or other certified funds that are payable to the Idaho State Tax Commission. A cash bond will not accrue interest. The State Tax Commission will cash the funds and hold the money for the duration the taxpayer holds a distributor license. (3-30-01)

b. Letters of credit. Irrevocable standby letters of credit, not exceeding the federally insured amount, issued by a bank doing business in Idaho, and insured by the Federal Deposit Insurance Corporation, made to the benefit of the Idaho State Tax Commission. The terms of the

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letter of credit must allow the State Tax Commission to make demand directly against the issuer of the letter of credit for any taxes, penalties, and interest due and unpaid, upon which the taxpayer's rights to appeal have expired, and for which the letter of credit was submitted to secure. The letter must include the following items: (3-30-01)

- i. Issuing institution; (3-30-01)
- ii. Taxpayer's name; (3-30-01)
- iii. Effective date; (3-30-01)
- iv. Expiration date and place; (3-30-01)
- v. Idaho State Tax Commission as the payee; (3-30-01)
- vi. Dollar amount covered; (3-30-01)
- vii. Terms of letter; (3-30-01)
- viii. Letter number; and (3-30-01)
- ix. Authorized signatures. (3-30-01)

c. Time Certificates of Deposit (CD). Automatically renewable time certificates of deposit, not exceeding the federally insured amount, issued by a financial institution doing business in Idaho and federally insured, made in the name of the depositor, payable to the "Idaho State Tax Commission" and containing the provisions that interest earned shall be payable to the depositor. The State Tax Commission will hold the CD. If the financial institution holds the actual CD or does not issue a certificate, a verification form is required by the State Tax Commission confirming the CD. The form may be obtained from the State Tax Commission. (3-30-01)

d. Joint Savings Account. Joint savings accounts, not exceeding the federally insured amount, at a financial institution doing business in Idaho and federally insured. The joint savings account should be issued in the name of the taxpayer and the "Idaho State Tax Commission". Evidence of the insured account must be delivered to the State Tax Commission. The taxpayer will be notified by the State Tax Commission of any increases in bonding when it becomes necessary. The taxpayer may send a check to cover the difference which will be deposited in the joint savings account. The interest accrued on the account is the taxpayer's. The terms of the joint savings account agreement must include the following: (3-30-01)

- i. No Automatic Teller Machine (ATM) card may be issued to the account; and (3-30-01)
- ii. Withdrawals require both signatures of the parties of the joint account or by the Idaho State Tax Commission alone. (3-30-01)

02. Commercial Motor Boat. A commercial motor boat, as defined in Section 63-2401(4), Idaho Code, includes a motor boat used in a business that rents boats to others who use

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the boats for pleasure. (6-23-94)

03. IFTA. Means the International Fuel Tax Agreement referred to in the Intermodal Surface Transportation Act of 1991, Public Law 102-240 section 4008, 105 Stat. 1414, codified as 49 USC Sections 31701 through 31708, and in Section 63-2442A, Idaho Code. (3-30-01)

04. Indian-Owned Retail Outlet. An Indian-owned retail outlet is: ()

a. Located within the boundaries of a federally recognized Indian reservation and ()

b. Owned and operated by: ()

i. The Coeur d'Alene, Kootenai, Nez Perce, Shoshone/Bannock, or Shoshone/Paiute tribe; or ()

ii. An enterprise owned by one (1) of the tribes listed above; or ()

iii. An enrolled member of one (1) of the listed tribes on whose reservation the retail outlet is located. ()

045. Pay, Paid, Payable or Payment. When used in reference to any amount of tax, penalty, interest, fee or other amount of money due to the State Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Idaho State Tax Commission of lawful money of the United States. As used herein, lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in money of the United States; provided however, acceptance by the State Tax Commission of any check that is subsequently dishonored by the bank upon which it is drawn shall not constitute payment. Additionally, nothing herein shall limit the authority of the State Tax Commission to refuse to accept any check drawn upon the account of a taxpayer who has previously tendered any check that was dishonored by the bank upon which it was drawn. All amounts due the state must be paid by electronic funds transfer whenever the total amount of tax due plus any related fee, interest, penalty or other additional amount is one hundred thousand dollars (\$100,000) or more, according to rules promulgated by the Idaho State Board of Examiners. (3-30-01)

056. These Rules. The term "these rules" refers to this chapter, IDAPA 35.01.05, of rules relating to the Idaho Motor Fuels Tax and the Idaho Petroleum Transfer Fee. (6-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which

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require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (3-30-01)

a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)

b. The total quantity of motor fuels and other petroleum products received during the month; (7-1-98)

c. The total quantity of motor fuels and other petroleum products disbursed ~~to licensed distributors tax not collected or exported, and motor fuel sold to the Idaho National Guard~~ during the month; Disbursements include motor fuel that is: (3-30-01)()

i. Delivered to licensed distributors tax and transfer fee not collected; ()

ii. Exported; ()

iii. Delivered to the Idaho National Guard tax exempt; or ()

iv. Delivered to an Indian-owned retail outlet tax not collected. ()

d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)

e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)

f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)

g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)

h. The tax-paid purchases; (7-1-98)

i. The net taxable gallons; (7-1-98)

j. The gallons of ethanol and biodiesel reported in ethanol ~~and~~ blends, biodiesel blends, ~~and biodiesel (limited to ten percent (10%) of the total volume);~~ (5-3-03)()

k. The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. See Rule 140 of these rules; (7-1-99)

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- l.** The tax computation; (7-1-98)
- m.** The bad debt amounts, refer to Rule 140 of these rules; (7-1-98)
- n.** The gaseous fuels permit fees; and (~~7-1-98~~)(____)
- o.** The net tax due; and (~~7-1-98~~)(____)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates. Supporting detailed schedules required by the State Tax Commission must accompany the report, together with all documentation and the payment of any tax, transfer fee, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

04. Supplemental Reports. In addition to the monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth day of the month following the month in which a report from which shipments were omitted was due. (7-1-98)

05. Timely Reporting. Any petroleum product shipments that are: (7-1-98)

a. Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)

b. Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty. (7-1-99)

06. Motor Fuels Receipts. All gasoline, gasohol, aircraft engine fuel, and undyed diesel fuel received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 105 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (3-30-01)

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(BREAK IN CONTINUITY OF SECTIONS)

140. DEDUCTIONS (RULE 140).

01. Motor Fuels and Petroleum Products Presumed to Be Distributed. Unless the contrary is established, it shall be presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and/or transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee will be allowed for accidental losses of motor fuels or other petroleum products. (7-1-98)

02. Distributor's and Retail Dealer's Allowances for Motor Fuels. The distributor shall certify on his report that the one percent (1%) credit allowance has been afforded the retail dealer to cover the dealer's shrinkage, evaporation, spillage or handling losses for motor fuel. The State Tax Commission shall then allow the additional one percent (1%) deduction unless a retail dealer claims that he did not receive the credit allowance. If such claim is made, the State Tax Commission shall require the licensed distributor to provide documentary proof that the one percent (1%) credit allowance has been afforded the retail dealer, and unless the distributor establishes that the credit has been afforded to the retail dealer, the deduction will be disallowed. In the case of sales of motor fuel to retail dealers, to establish that the allowance of one percent (1%) of the tax has been passed to the purchaser, the invoice must show either: (4-6-05)

a. That the amount of the allowance has been passed on; or (7-1-98)

b. A statement that the allowance has been deducted in determining the price. (7-1-98)

03. Exported Fuel. Motor fuels or other petroleum products claimed as exported from Idaho must be supported by records. Records must include the following: (7-1-98)

a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (7-1-98)

b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or (7-1-98)

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (7-1-98)

d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (7-1-98)

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e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records must be retained to prove the transfer of product out of Idaho. (7-1-98)

04. Bad Debt Write-Off. ~~A tax credit may be taken on the distributor's fuel tax report for fuel taxes paid on sales made after July 1, 1995. The credit is claimed when the debt has been written off for income tax purposes in the business records of the distributor. The credit may be claimed on distributor's fuel tax report each month or at the end of the distributor's tax year after a debt has been written off.~~ A distributor may take a bad debt tax credit for fuel taxes paid on sales made after July 1, 1995. After the debt has been written off for income tax purposes in the distributor's records, the distributor may claim the credit on its fuel tax report for the month in which it made the bad debt adjustment. (7-1-98)()

a. First-in/first-out method for partial payments. When a distributor receives partial payments ~~are received~~ on a specific fuel account that includes taxable ~~fuel sales, and~~ nontaxable fuel sales, ~~and/or other sales,~~ the distributor must apply the payments to the unpaid fuel sales on a first-in/first-out basis before ~~claiming a~~ calculating the amount of the bad debt credit. (7-1-98)()

b. Proration of partial payments. When a distributor receives partial payments ~~are received~~ on a specific fuel account, before and/or after claiming a bad debt credit ~~has been claimed on the distributor's~~ its fuel tax report, the distributor must prorate the taxable ~~fuel sales,~~ and nontaxable fuel sales, ~~and/or other sales which~~ that occurred on the same day or on the same invoice for each such account. (7-1-98)()

c. Amount of credit allowed. A distributor may claim a credit or refund on its monthly fuels tax report for fuels tax that is found to be uncollectible. If both nontaxable and taxable fuel sales are included in the fuel account, a distributor may take credit only for the portion of the bad debt that represents unpaid fuels tax. ()

d. Multiple accounts - allocation of unspecified payments. If a distributor receives an unspecified payment from a customer that may be applied to an unpaid fuel account and nonfuel accounts, the distributor must allocate the payment to the various accounts upon receipt of the partial payment. If the distributor fails to make the allocation at the time the payment is received, the entire amount of the payment will be allocated to the customer's fuel account for purposes of calculating the amount of the credit. ()

e. Statute of limitations for bad debt claim. A distributor may receive a credit or refund of fuels taxes in Subsection 140.04 of this rule if a written claim is filed with the State Tax Commission within three (3) years from the date the tax was paid to the State Tax Commission. The State Tax Commission will review all such refund claims. ()

(BREAK IN CONTINUITY OF SECTIONS)

150. DOCUMENTATION REQUIRED (RULE 150).

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01. Retail Sales Invoices for Delivered, Bulk Plant, and Station Sales. Any distributor who sells motor fuels and other petroleum products in this state must issue an original invoice to the purchaser; provided, however, that when sales are accounted for on a monthly basis the invoices may be issued to the purchaser at the time of billing. All sales invoices (including a credit card receipt used as a sales invoice) for motor fuels and other petroleum products sold at retail stations, bulk plants, or delivered to the customer's location must contain the following:

(~~7-1-98~~)()

a. A preprinted ~~serial~~ identification number, except when invoices are automatically assigned a ~~consecutive serial~~ unique identification number by a computer or similar machine when issued;

(~~7-1-98~~)()

b. Name and address of the distributor; (7-1-98)

c. Name of the purchaser; (7-1-98)

d. Date of sale or delivery; (7-1-98)

e. Type of fuel; (7-1-98)

f. Gallons invoiced - reported as required in Section 120 of these rules; (7-1-98)

g. Price per gallon and total amount charged. When taxable motor fuels products are sold, at least one (1) of the following must be used to establish that the Idaho state fuel tax has been charged:

(7-1-98)

i. The amount of Idaho state fuels tax; (7-1-98)

ii. The rate of Idaho state fuels tax; or (7-1-98)

iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

h. Delivered sales invoices must also contain the purchaser's address along with the Origin and Destination of the motor fuels and other petroleum products. (7-1-98)

i. The sales invoice shall contain double-faced carbons on the original of the first copy, unless invoices are automatically prepared by a computer or similar machine when issued.

(7-1-98)

02. Correcting Sales Invoice Errors. When an original invoice is issued containing incorrect information, it may be canceled by a credit invoice and cross-referenced to all copies of the invoice covering the transaction being corrected. If a second sales invoice is issued, it shall show the date and serial number of the original invoice and that the second invoice is in replacement or correction thereof. (7-1-98)

03. Documentation Is Required. Failure to include all the above documentation will result in an invalid sales invoice for a tax-paid fuel claim by the distributor's customer. (7-1-98)

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04. Documentation Requirements for Dyed Diesel Fuel. The state of Idaho is following the Internal Revenue Service requirements for sales of dyed diesel fuel. The Internal Revenue Code requires that a notice stating “Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use” must be: (7-1-98)

a. Provided by the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that operator; and (7-1-98)

b. Provided by any seller of dyed diesel fuel to the buyer if the fuel is located outside the bulk transfer/terminal system and is not sold from a posted retail pump; and (7-1-98)

c. Posted by a seller on any retail pump where the dyed diesel fuel is sold for use by the buyer. (7-1-98)

d. The documentation notice found in this rule must be provided at the time of removal or sale and must appear on shipping papers, bills of lading, and sales invoices accompanying the sale or removal of the fuel. Any person who fails to provide or post the required notice is presumed to know that the fuel will be used for a taxable use and is subject to penalties imposed by the Internal Revenue Service. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

170. ADDITIONAL INFORMATION (RULE 170).

01. Undyed Diesel Fuel Used for Heating Purposes. The consumer must apply directly to the State Tax Commission for a refund of the special fuels taxes paid on purchases of undyed diesel fuel which are used for heating a dwelling or building. The distributor may assist the consumer who is claiming a refund of the special fuels tax from the State Tax Commission by: (7-1-98)

a. Properly documenting information on the sales invoice; and (7-1-98)

b. Providing the customer with a Form 75-HF “Heating Fuel Only”. (7-1-98)

02. Red-Dyed High-Sulfur Fuel. It is illegal to use red-dyed high-sulfur fuel in the supply tank of a licensed, or required to be licensed, motor vehicle in this state. (7-1-98)

03. Red-Dyed Low-Sulfur Fuel. The Internal Revenue Code does allow certain types of users to purchase tax-exempt red-dyed low-sulfur diesel fuel for use in their vehicles. The use of untaxed low-sulfur red-dyed diesel fuel in motor vehicles may be subject to Idaho’s special fuels tax if the motor vehicles are not owned or leased, and operated by the ~~federal government~~, state of Idaho, or any of its political subdivisions such as a city, county, or fire district. The red-dyed low-sulfur diesel fuel may be used: (7-1-98)(____)

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- a. By state and local governments (political subdivisions of the state) for their exclusive use; (7-1-98)
- b. In the engine of a train; (7-1-98)
- c. In a school bus while the bus is engaged in the transportation of students and school employees; (7-1-98)
- d. ~~By a qualified local bus while the bus is engaged in furnishing intracity passenger land transportation for compensation, if the bus is available to the general public, operates along scheduled, regular routes, has a seating capacity of at least twenty (20) adults (not including the driver), and is under contract with, or receiving more than a nominal subsidy from, any state or local government to furnish such transportation; and~~ In a vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; (7-1-98)()
- e. ~~By an intercity bus to furnish, for some level of compensation, passenger transportation that is available to the general public, and the transportation is scheduled and follows regular routes, or the seating capacity of the bus is at least twenty (20) adults (not including the driver).~~ In a highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; (7-1-98)()
- f. ~~The buses identified in Subsections 170.03.d. and 170.03.e. above are available to the general public if the buses are available for hire to more than a limited number of persons, groups, or organizations.~~ In a highway vehicle owned by the United States that is not used on a highway; (7-1-98)()
- g. Exclusively by a nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5). ()

04. Motor Fuels Exemption From Sales Tax. Any sale of motor fuels by any fuel distributor which is subject to motor fuels tax is exempt from Idaho sales tax under Chapter 36, Title 63, Idaho Code. If fuel, including dyed diesel fuel, is sold without the motor fuels tax, the sale is subject to Idaho state sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of fuel delivered into bulk storage tanks, where the motor fuels tax is not charged, are exempt from Idaho sales tax only if the distributor has taken from the purchaser a sales tax exemption certificate in the manner required by IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules," Rule 128. However, if the fuel delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not required. (5-3-03)

171. -- 179. (RESERVED).

180. REFUNDS TO LICENSED FUEL DISTRIBUTORS (RULE 180).

01. Refund Claim. Any licensed fuel distributor believing that he has paid motor fuels taxes or transfer fees in any amount more than properly imposed may file a claim with the State Tax Commission for a refund of such excess motor fuels taxes or transfer fee on forms prescribed by the State Tax Commission. The claim for refund must conform with the requirements of this

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rule. (3-15-02)

02. Refund Claim Documentation. The claim must be filed on a distributor's fuel tax report and must include the full name and address of the claimant and his fuel distributor's license number. If the claim is for a casualty loss, the claim must include a detailed statement of the reason the claimant believes a refund is due. The statement should include a description of the transactions, if any, to which the motor fuel tax relates and must be filed on a distributor's fuel tax report for the period for which the claimed excess motor fuel tax or transfer fee amount was paid. ~~The claim for refund must include a statement that the amount refunded to the licensed fuel distributor has been, or will be, refunded by the fuel distributor to the purchaser, or that such motor fuel tax or transfer fee have never been collected from the purchaser.~~ (3-15-02)()

03. Refund as a Credit. A claimant may claim a bad debt credit for motor fuels taxes as a credit against motor fuels taxes or transfer fee due on the distributor's fuel tax report. (3-15-02)

04. Statute of Limitation. No claim for refund will be allowed by the State Tax Commission if it is filed more than three (3) years from the time the payment of the claimed excess motor fuels taxes or transfer fee was made. The time the payment was made is the date upon which the distributor's fuel tax report relating to the payment was filed or was required to be filed, whichever occurred first. (3-15-02)

05. Appeal Procedures. No claim for refund may be filed relating to any motor fuels taxes or transfer fees that have been asserted by a Notice of Deficiency Determination. A taxpayer contending that motor fuels taxes or transfer fee have been erroneously or illegally collected by the State Tax Commission pursuant to a Notice of Deficiency Determination must seek a redetermination by using the appeal procedures required by law. (3-15-02)

06. Notice of Denial. All claims for refund or credit will be reviewed by the State Tax Commission's staff. If the staff concludes that all or any part of the claim should not be allowed to the claimant, notice of denial of the claim shall be mailed to the claimant by certified mail. The notice shall include a statement of the reasons for the denial. When seeking an appeal or redetermination of a denial of a claimed refund or credit, the notice of denial shall be the equivalent of a Notice of Deficiency Determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must do so by filing a petition for redetermination in the manner prescribed in Idaho Administration and Enforcement Rule 300, as incorporated herein by Rule 330 of these rules. Such a petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to, or served upon, the claimant. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

270. REFUND CLAIMS -- DOCUMENTATION (RULE 270).

01. Refunds to Consumers. Any buyer of motor fuels, claiming a refund under

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Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following. ~~In addition to the requirements outlined above, each invoice must contain or show the following:~~ (7-1-98)()

- a. A preprinted ~~serial~~ identification number; (7-1-98)()
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
 - i. The amount of Idaho state fuels tax; (7-1-98)
 - ii. The rate of Idaho state fuels tax; or (7-1-98)
 - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

02. **Indian-Owned Retail Outlet.** Motor fuels purchased from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase. See definition of Indian-owned retail outlet in Rule 010 of these rules. ()

023. **Corrected Invoices.** No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and retained by the seller for at least three (3) years from the date issued. (7-1-98)

034. **Invoice Retention.** The original invoices required by Subsection 270.01 of this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98)

045. **Refund Documents.** For refund claims under Section 63-2410(5)(c), Idaho Code, an original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an

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existing document.

(7-1-98)

056. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both ~~refundable~~ taxable and ~~nonrefundable~~ nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (7-1-98)()

a. Use of Fuel from a Single Storage Tank. ~~Idaho~~ Tax-paid fuel (other than fuel purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 292 of these rules) purchased and delivered into a single bulk storage tank and withdrawn for both nontaxable and taxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty-five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless another percentage is requested by the taxpayer and authorized by the State Tax Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use. The State Tax Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel. (3-20-04)()

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained for both exempt and taxable uses, the seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel is used by motor vehicles licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 292 of these rules. All fuel invoices must be retained as required by Subsection 270.03 of this rule. Exempt fuel may not be used in motor vehicles licensed or required to be licensed. (3-20-04)

c. Use of Fuel for Other Than Bulk Storage. Fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than licensed motor vehicles, must be identified on the purchase invoice. No other records will be required. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

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292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292).

01. Fuel Records Required for Refund Claims. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. (4-5-00)

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 130 of these rules regarding application of Idaho Sales and Use Taxes. (4-6-05)

03. Additional Nontaxable Roadways. Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard MPG” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway. (3-15-02)

04. Calculation. Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the statutory MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase. See definition of Indian-owned retail outlet in Rule 010 of these rules. ~~(4-5-00)~~()

05. Power Take-Off and Auxiliary Engine Allowances (Allowances). Power-take-off (PTO) allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline-powered vehicles. (4-5-00)

a. Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. (4-6-05)

b. Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of

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the licensed motor vehicle. No claim for gasoline is allowed when gasoline is used by the licensed motor vehicle's main engine even to operate the motor vehicle's PTO unit. (3-15-02)

c. Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (4-5-00)

i. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(3-15-02)()

ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage compaction	25%	x	Gallons consumed

(3-15-02)

06. Nonstandard Allowances. A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY
IDAHO STATE TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722-0410

The Idaho State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. (4-6-05)

07. Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees. The nontaxable gallons of fuel claimed by non-IFTA licensees may be the allowance gallons listed in Subsections

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292.05 and ~~290~~292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPG's, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to mileage and fuel consumption (MPG) information. ~~(4-6-05)~~(____)

08. IFTA Licensees. Qualifying for Power Take-Off (PTO) And Auxiliary Engine Allowances (Allowances). Allowances listed in Subsection 292.05 of this rule or established as provided in Subsection 292.06 of this rule may be granted for IFTA licensees by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. (4-6-05)

a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, recompute the fleet miles per gallon. Apply the new fleet miles per gallon to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (4-5-00)

b. Additionally, a copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (4-5-00)

c. IFTA licensees that used an assumed MPG when preparing their original IFTA return may not claim any additional refund. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

400. IFTA LICENSING AND SPECIAL FUELS PERMITTING REQUIREMENTS FOR MOTOR VEHICLES OVER TWENTY-SIX THOUSAND POUNDS MAXIMUM GROSS WEIGHT (RULE 400).

The following rules relate to the special fuels tax licensing system provided in Sections 63-2438 through 63-2440, Idaho Code, inclusive and, where expressly stated, supplements the requirements of IFTA. (7-1-98)

01. In General. It is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight that uses special fuels as defined in Section 63-2401~~(20)~~, Idaho Code, on the highways of this state without having obtained one (1) of the following: ~~(7-1-98)~~(____)

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a. A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (7-1-98)

b. A temporary permit from the Idaho Transportation Department. (3-15-02)

c. An IFTA license. (7-1-98)

d. In the case of vehicles powered by gaseous fuels, a gaseous fuel permit as provided by Section 63-2424, Idaho Code. (7-1-98)

02. Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the federal government or the state of Idaho or their instrumentalities or political subdivisions are exempt from these requirements. (3-15-02)

03. Out-of-State Governmental Vehicles. Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (7-1-98)

04. Temporary Permits. Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, shall secure a temporary permit from the Idaho Transportation Department in the manner provided and required by that department. (3-15-02)

05. Failure to Obtain an IFTA License or a Temporary Permit. Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, an IFTA license or an Idaho temporary permit is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Sections 63-2434 and 63-3065, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle required to display, but failing to display, either an IFTA license or a temporary permit. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (RULE 510).

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the receipt of any petroleum or petroleum

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product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. (7-1-99)

b. The legal incident of the fee is on the distributor required to report it to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (6-23-94)

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to Section 63-2403, Idaho Code. (7-1-99)

03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. Casualty Loss and Shrinkage Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. The deductions allowed to motor fuel distributors for fuel lost by fire or similar casualty, see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for cost of collection and loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. (7-1-99)

05. Petroleum and Petroleum Products. The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as gasohol and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil,

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brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. (7-1-99)()

06. Licensed Distributors and Limited Licenses. Any person holding a distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-99)

07. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2427A, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the tax on the same fuel. (5-3-03)

b. Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)

c. The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

08. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (4-6-05)

TRANSPORTATION

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.41 - RULES GOVERNING PROVISIONS APPLICABLE TO FEES FOR SERVICES

DOCKET NO. 39-0241-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201(1), 49-202(2), and 67-2510, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 1, 2004 Idaho Administrative Bulletin, Volume 04-12, pages 83 through 85.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 3rd day of August, 2005.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 49-201(1), 49-

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202(2), and 67-2510, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule allowed bulk sale of the driver record database (more than 925,000 records). Concerns related to privacy and re-dissemination of personal information made continuation of bulk sale of driver records questionable. The rule change removes the provision for bulk sale of driver records. Individual record access to driver information would continue to be available to authorized requestors as provided in Section 49-203, Idaho Code.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking removes the provision for bulk sale of driver records, which will help to protect the privacy of drivers in Idaho.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee or charge being imposed or increased.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were determined to be in the public interest to protect the privacy of drivers licensed in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before December 22, 2004.

DATED this 3rd day of November, 2004.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter.

(12-1-04)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

(12-1-04)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter.

(12-1-04)T

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129.

(12-1-04)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays.

(12-1-04)T

03. Telephone and FAX numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858.

(12-1-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(12-1-04)T

0027. -- 099. (RESERVED).

100. ADMINISTRATION.

Idaho Code provides for the collection of fees for related services. This rule provides for automation considerations and a fee schedule to uniformly apply the ten dollar (\$10) per-hour fee provided by Idaho Code. The following fees apply for services and copies of files regarding motor vehicle or other registration, motor vehicle titles, drivers' licenses or commercial drivers licenses, and are based on a ten dollar (\$10) per hour photocopying charge:

(12-26-90)

01. Paper or Microfilm Records. Copies of supporting driver's license, registration, or title records from paper or microfilm records, based on an average of twenty-four (24) minutes to fully process these requests. Fee per document, four dollars (\$4).

(9-4-91)

02. Automated Records. Idaho Code does not provide a fee for complete county or statewide automated copies of ~~driver's license~~, registration or title files. A fee has been based on the costs to produce special file requests.

~~(12-26-90)~~(12-1-04)T

a. A base charge for programs requiring: One (1) to three (3) sorts, seventy-five dollars (\$75). Each additional sort, twenty-five (\$25).

(12-26-90)

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT Provisions Applicable to Fees for Services

Docket No. 39-0241-0401
PENDING RULE

b. In addition to the above, the computer cost, printer cost and tape access cost, as established by ~~ISDP~~ the information technology section will be charged. ~~(12-26-90)~~(12-1-04)T

c. Any mailing, shipping or special handling costs will also be added to the charges. (12-26-90)

03. Magnetic Tapes Must Be Provided. Requestors must provide magnetic tapes for this purpose. Data is provided in a standard department format. Vehicle or driver history information is not included. The only selection ~~criteria~~ criterion is by counties. ~~(12-26-90)~~(12-1-04)T

04. Records Provided Free of Charge. Motor vehicle and driver records will be provided free of charge to the following: (9-4-91)

a. State Agencies. (9-4-91)

b. County Assessors. (9-4-91)

c. County Sheriffs. (9-4-91)

d. Peace Officers requesting records in the performance of their duties as per Section 49-202(3), Idaho Code. (9-4-91)

05. Rules for Providing Records Free of Charge. The Division of Motor Vehicles ~~Bureau~~ shall observe the following guidelines when providing records free of charge: ~~(9-4-91)~~(12-1-04)T

a. Records will be provided free of charge only if they are a standard computer run that does not require special programming and/or sorting. Records requiring special handling will be provided for a fee equal to the cost of the additional handling. (9-4-91)

b. Records will be provided free of charge on computer tapes supplied by the requestor, or as a standard computer printout. All other formats will be provided for a fee equal to the cost of the additional materials. (9-4-91)

c. The Assessor's Clearinghouse and the Sheriff's Clearinghouse shall each establish a single standardized computer printout that will be used for all motor vehicle and driver requests from their respective agencies. (9-4-91)

d. Records access agreements between the Division of Motor Vehicles ~~Bureau~~ and government agencies requesting motor vehicle and driver records shall be negotiated and renewed annually, and shall contain a list of all personnel who will have access to the records and/or on-line terminals. ~~(9-4-91)~~(12-1-04)T

e. On-line computer installation and equipment shall be charged at a rate defined in the annual agreement. (9-4-91)

TRANSPORTATION

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 6, 2005 Idaho Administrative Bulletin, Volume 05-07, pages 66 through 68.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Commercial Vehicles Manager, 334-8809.

DATED this 3rd day of August, 2005.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is March 10, 2005.

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Overlegal Permittee Responsibility and Travel Restrictions**Docket No. 39-0311-0501**
PENDING RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Due to ever increasing traffic volumes on state and interstate highways, this rule is being modified to restrict over-width permitted vehicles from operating on certain sections of state and interstate highways during the hours of high-commuter traffic (6:30 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m.). There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Restricting over-width permitted vehicles from operating on certain section of interstate highways during the hours of high-commuter traffic will protect the public safety.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee or charge associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because immediate implementation will protect the public safety of the traveling public by reducing the congestion already occurring on some stretches of interstate highways.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Commercial Vehicles Manager, 334-8809.

Anyone may submit written comments regarding the proposed rulemaking. All written comments

TRANSPORTATION

must be directed to the undersigned and must be delivered on or before July 27, 2005.

DATED this 1st day of June, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.

Oversize loads may be transported on Idaho Highways subject to the following conditions:

(10-2-89)

01. Red-Coded Routes. Daylight travel until 2 p.m. on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (4-5-00)

02. Black-Coded Routes. Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

03. Interstate. Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel daylight hours, seven (7) days per week. (4-5-00)

04. Additional Restrictions. (8-25-94)

a. Red-Coded Routes: No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (4-5-00)

b. Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after 4:00 p.m. on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (4-5-00)

c. The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. (8-25-94)

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IDAHO TRANSPORTATION DEPARTMENT
Overlegal Permittee Responsibility and Travel Restrictions**Docket No. 39-0311-0501**
PENDING RULE

d. Additional restrictions relating to movement of buildings and houses are listed in IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400. (4-5-00)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (8-25-94)

05. Hours Of Darkness. Hours are defined as extending from one-half (1/2) hour after sundown to one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet. (4-5-00)

06. Heavy Commuter Traffic Restrictions. The movement of oversize permitted vehicles or loads which are in excess of twelve (12) feet in width, ~~in excess of eighty-five (85) feet in length, or in excess of sixteen (16) feet in height~~ may be prohibited from movement on all state and Interstate highways within five (5) five miles of and through the ~~urban~~ city limits of the following cities: Boise, Caldwell, Coeur d'Alene, Eagle, Emmett, Hayden, Idaho Falls, Lewiston, Meridian, Middleton, Moscow, Nampa, Pocatello, Post Falls, Sandpoint, Star, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Unless restricted for holiday travel or otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., ~~11:30 a.m. to 1:30 p.m.~~ and 4 p.m. to 6 p.m. Monday through Friday. ~~This restriction may not apply to sections of completed Interstate Highway within the above listed cities. Such a restriction of oversize load travel to avoid conflict with heavy commuter traffic volumes shall appear on the face of the permit.~~ Restrictions to the operation of overwidth vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. ~~(4-5-00)~~(3-10-05)T

07. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (3-10-05)

08. Delaying Movement. Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving overlegal permit operations. (4-5-00)

09. Map Resources. The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices. (4-5-00)

TRANSPORTATION

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 3, 2004 Idaho Administrative Bulletin, Volume 04-11, pages 35 through 37.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Commercial Vehicles Manager, 334-8809.

DATED this 3rd day of August, 2005.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2004.

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Permits/Manf. Homes/Modular Buildings/Office Trailers

Docket No. 39-0317-0401
PENDING RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 17, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making: **This rulemaking removes the restriction on the depth of eaves on manufactured homes and office trailers being towed and on manufactured homes, modular buildings or offices being hauled, as long as the eighteen foot maximum overall width limitation is not exceeded. This results in a positive and immediate economic impact on the industry in being able to contract to build manufactured homes that meet subdivision requirements for the depth of eaves. The previously set eave depth placed an unnecessary restriction on the transport of these structures which inhibited their sale and delivery.**

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking confers a benefit on the manufacturer, seller, transporter and buyer of the manufactured structures governed by this rule.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is being promulgated at the request of the industry with whom it would be negotiated.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Port of Entry Manager, 334-8694.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 24, 2004.

DATED this 30th day of September, 2004.

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Permits/Manf. Homes/Modular Buildings/Office Trailers

Docket No. 39-0317-0401
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter.

(10-1-04)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

(10-1-04)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter.

(10-1-04)T

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129.

(10-1-04)T

02. Office Hours. Daily office hours are 7:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays.

(10-1-04)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 208-334-8419.

(10-1-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(10-1-04)T

0027.--009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

200. MANUFACTURED HOMES AND OFFICE TRAILERS BEING TOWED.

01. Connection Device. A ball hitch coupler. (10-2-89)

02. Length. Not in excess of eighty (80) feet including tongue. (10-2-89)

03. Width. Shall be limited to a maximum of sixteen (16) feet at the base and shall not exceed eighteen (18) feet overall width including the eaves. (3-23-98)

**** Determination of manufactured home or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3) inches on each side of**

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load. (3-23-98)

04. Eaves. ~~The eaves may extend up to sixteen (16) inches~~ No restrictions on eaves as long as the eighteen (18) feet maximum overall width limitation is not exceeded.
(3-23-98)(10-1-04)T

05. Weight. The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Subpart J, (CFR Title 24). (3-23-98)

06. Running Gear Assembly - General. The entire system (frame, drawbar, and coupling mechanism, running gear assembly including brake systems, axles and lights) shall be in accordance with CFR Title 24, for the year the manufactured home was built. In addition thereto, all tires used in transportation of manufactured homes under this category shall be in accordance with Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

07. Construction. Construction shall be in accordance with CFR Title 24, for the year the manufactured home was built. (3-23-98)

08. Axles. All axles shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have a minimum of four (4) axles. (3-23-98)

09. Brakes. Brakes shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have brakes on a minimum of three (3) axles. (3-23-98)

10. Lights. The unit shall have stop lights, turn signals and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

11. Safety Chains. Two (2) safety chains shall be used, one (1) each on right and left sides of, but separate from, the coupling mechanism connecting the tow vehicle and the manufactured home while in transit. Chain shall be three-eighths (3/8) inch diameter steel. Chains shall be strongly fastened at each end to connect the tow vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

300. MANUFACTURED HOME, MODULAR BUILDING, OR OFFICES BEING HAULED.

01. Length. Not in excess of eighty (80) feet. (10-2-89)

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Permits/Manf. Homes/Modular Buildings/Office Trailers

Docket No. 39-0317-0401
PENDING RULE

- 02. Width.** Not in excess of sixteen (16) feet at the base and eighteen (18) feet overall.
(3-23-98)
- 03. Eaves.** ~~The eaves may extend up to sixteen (16) inches~~ No restrictions on eaves as long as the eighteen (18) foot maximum overall width limitation is not exceeded.
(3-23-98)(10-4-04)T

TRANSPORTATION

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY

DOCKET NO. 39-0345-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-335A, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 6, 2005 Idaho Administrative Bulletin, Volume 05-07, pages 69 through 72.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Leonard Hill, Right-of-Way Manager, 334-8520.

DATED this 3rd day of August, 2005.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Sale of No Longer Useful or Usable Real Property**Docket No. 39-0345-0501**
PENDING RULE

hereby given that this agency has adopted a temporary rule and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 58-335A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In the 2005 legislative session, Senate Bill 1083 amended Section 58-335A, Idaho Code, to allow local government entities to acquire surplus ITD property, for other than transportation purposes, at a negotiated price, up to the appraised value, expressly for public purposes, with sales proceeds to the State Highway Account.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To comply with amendments made to Idaho Code by Senate Bill 1083 passed in the 2005 legislative session.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee or charge associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is necessary for compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Leonard Hill, Right-of-Way Manager, 334-8520.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2005.

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0501
PENDING RULE

DATED this 1st day of June, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.45 “Rules Governing Sale of No Longer Useful or Usable Real Property,” IDAPA 39, Title 03, Chapter 45. (7-1-05)T

02. Scope. This rule ~~establishes a process~~ contains guidelines for selling no longer useful or usable real property under the ownership and control of the Idaho Transportation Department. (7-1-97)(7-1-05)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-05)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General”. (7-1-05)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-05)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P.O. Box 7129, Boise ID 83707-1129. (7-1-05)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-05)T

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (7-1-05)T

04. Idaho Transportation Department District Offices are at the following locations:(7-1-05)T

- a.** Idaho Transportation Department District 1
Mailing address - 600 W. Prairie
Coeur d’Alene, Idaho 83815-8764
Office Hours - 7 a.m. to 4 p.m., Pacific Time Zone

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IDAHO TRANSPORTATION DEPARTMENT
Sale of No Longer Useful or Usable Real Property**Docket No. 39-0345-0501**
PENDING RULE

Phone - (208) 772-1200

(7-1-05)T

- b.** Idaho Transportation Department District 2
2600 Frontage Road, Lewiston
Mailing address - P.O. Box 837
Lewiston, Idaho 83501-0837
Office Hours - 7 a.m. to 4 p.m., Pacific Time Zone
Phone - (208) 799-5090
- c.** Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address - P.O. Box 8028
Boise, Idaho 83707-2028
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone - (208) 334-8300
- d.** Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address - P.O. Box 2-A
Shoshone, Idaho 83352-0820
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone - (208) 886-7800
- e.** Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address - P.O. Box 4700
Pocatello, Idaho 83205-4700
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone - (208) 239-3300
- f.** Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address - P.O. Box 97
Rigby, Idaho 83442-0097
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone - (208) 745-7781

(7-1-05)T

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006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(7-1-05)T

0027. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0501
PENDING RULE

301. ~~METHOD OF SALE FOR PROPERTY VALUED LESS THAN TEN THOUSAND DOLLARS~~ SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES AT THE APPRAISED VALUE.

~~The department shall offer the property for sale at an amount not less than the Surplus Property Value Estimate. The property shall first be offered to all adjoining property owners. If more than one (1) adjoining property owner is interested in the property, a private auction will be held between the adjacent owners. If the property is not purchased by an adjacent owner, it shall be offered at public sale. The sales price shall include an administrative fee. Term sales of up to five (5) years may be offered at the discretion of the department. The department shall first offer property at the appraised price to the following: state agencies, county where the property is located, city where the property is located, the highway district in which the property is located. State agencies are given first priority to purchase the property, county second, city third and highway district fourth. Other tax supported entities not enumerated will not specifically be notified but have the fifth priority to purchase property. The sale price shall include any administrative fees incurred by the department.~~ (7-1-97)(7-1-05)T

302. ~~METHOD OF SALE FOR PROPERTY VALUED AT TEN THOUSAND DOLLARS OR GREATER~~ SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES FOR LESS THAN THE APPRAISED VALUE.

~~The department shall first offer the property at the appraised price to the following: State Agencies, County and City where the property is located, the Highway District in which the property is located. The state agencies are given first priority to purchase the property, county second, city third and Highway District fourth. If none of the above public agencies purchase the property, it will be offered at public sale. The sales price shall include an administrative fee. Term sales of up to twenty (20) years may be offered at the discretion of the department. If none of the above public agencies wishes to purchase the property for the appraised value the department may negotiate sale or exchange of the property at less than the fair market value in the priority set out above to any tax-supported agency or political subdivision of the state of Idaho in whose jurisdiction the property resides other than state agencies. If property is sold or exchanged for less than the fair market value it must be used exclusively and in perpetuity for a public purpose. The specific public use will be set out in the deed of transfer and if the use is violated or discontinued the property will revert to the ownership of the department. If jurisdiction, value or use cannot be agreed upon between the department and a public agency the property will be offered at a public sale. Any property purchased using federal funds must receive the approval of the Federal Highway Administration prior to being sold or exchanged for less than the appraised value.~~ (7-1-97)(7-1-05)T

303. METHOD OF SALE FOR PROPERTY VALUED AT LESS THAN TEN THOUSAND (\$10,000) DOLLARS.

If property is not purchased by a public entity it shall be offered at an amount not less than the value estimate or appraisal. The property shall first be offered to immediate adjoining property owners. If more than one (1) adjoining property owner is interested in the property a private auction will be held between those adjoining owners wishing to purchase the property. If the property is not purchased by an adjoining owner it shall be offered at public sale. The sales price shall include an administrative fee. Term sales of up to five (5) years may be offered at the discretion of the department. (7-1-05)T

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0501
PENDING RULE

304. METHOD OF SALE FOR PROPERTY VALUED AT TEN THOUSAND (\$10,000) DOLLARS OR GREATER.

If no public agency purchases property it will be offered at public sale. The sales price shall include an administrative fee. Term sales of up to twenty (20) years may be offered at the discretion of the department. (7-1-05)T

3035. -- 399. (RESERVED).

TRANSPORTATION

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.02 - RULES GOVERNING MARKING OF HAZARDS TO AIR FLIGHT

DOCKET NO. 39-0402-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 21-515 and 21-519, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Volume 05-10, pages 698 through 701.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than then thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Lessor, Aviation Technician, 334-8895.

DATED this 2nd day of October, 2005.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

The Following Notice Was Published With The Temporary And Proposed Rule

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Rules Governing Marking of Hazards to Air Flight

Docket No. 39-0402-0501
PENDING RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 21-515 and 21-519, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

House Bill 40, 2005, amended several sections of Title 21, Idaho Code, to revise the definition of an “airport hazard” and related language to be consistent with Federal Code. The height at which a structure is considered a hazard to safe airflight and will require notification of construction is increased from 150 feet to 200 feet and the minimum size requirement for marker balls is reduced from 54 inches to 36 inches, also to be consistent with Federal requirements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with 2005 House Bill 40.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee or charge associated with this rule-making.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this rule-making is necessary for compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Rules Governing Marking of Hazards to Air Flight**Docket No. 39-0402-0501**
PENDING RULE

COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Lessor, Aviation Technician, 334-8895.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 24th day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

**39.04.02 - RULES GOVERNING MARKING OF ~~OBSTRUCTIONS~~
HAZARDS TO AIR FLIGHT**

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.04.02 "Rules Governing Marking of Hazards to Air Flight," IDAPA 39, Title 04, Chapter 02. (7-1-05)T

02. Scope. This rule establishes the requirements for marking of ~~obstructions~~ hazards to air flight through the airspace of and over the state of Idaho in order to protect and ensure the general public safety, and the safety of persons operating, using or traveling in aircraft pursuant to Section 21-515, Idaho Code. (11-28-90)(7-1-05)T

002. Written Interpretations.

There are no written interpretations for this chapter. (7-1-05)T

003. Administrative Appeals.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01. "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-05)T

004. Incorporation By Reference.

There are no documents incorporated by reference in this chapter. (7-1-05)T

005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. The Division of Aeronautics offices are located at 3483 Rickenbacker Street, Boise ID 83707-1129. (7-1-05)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-05)T

03. Telephone and FAX Numbers. The Aeronautics offices may be contacted during office hours at 208-334-8775 or by fax at 208-334-8789. (7-1-05)T

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT Rules Governing Marking of Hazards to Air Flight

Docket No. 39-0402-0501
PENDING RULE

006. Public Records Act Compliance.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-05)T

0027. -- 099. (RESERVED).

100. REQUIREMENTS.

01. Hazardous Structures. Any structure which obstructs the airspace more than ~~one~~ two hundred ~~fifty~~ (150200) feet above the ground or water level, or at any height near an established airport as defined by Section 21-101(c), Idaho Code, when determined by the Transportation Board or the Aeronautics Division Administrator acting in behalf of the Board, to be a hazard or a potential hazard to the safe flight of aircraft shall be plainly marked, illuminated, painted, lighted, or designated in a manner approved by the Board. (1-2-93)(7-1-05)T

02. Lines, Wires, and Cables. Power lines, communication lines, wires, or cable more than ~~one~~ two hundred ~~fifty~~ (150200) feet above the terrain crossing canyons, rivers, navigable bodies of water, terrain undulations, or guy structures or any height where such wire, cable or obstruction cross navigable bodies of water near established seaplane bases, if determined by the Board to be a hazard to air navigation, shall be marked at two hundred (200) feet intervals of spacing by sphere-type markers having a minimum diameter of ~~fifty-four~~ thirty-six (5436) inches. Said sphere to be of the split-sheet, clamp-on type which are to be alternated in three (3) contrasting solid colors of gloss white, gloss yellow, and international orange and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. (1-2-93)(7-1-05)T

03. Spans Between Support Piers. Long spans that exceed lengths of one-half (1/2) mile between support piers, ~~the~~ each piers shall be marked with flashing strobe or beacon lights of a type and brilliance acceptable to the Board if such is deemed pertinent to safety and recognition of obstructions. (11-28-90)(7-1-05)T

04. Construction. Any construction sponsor is required to submit a notice to the Aeronautics Division Administrator if his construction exceeds one (1) or more of the following conditions: (1-2-93))

a. Greater than ~~one~~ two hundred ~~and fifty~~ (150200) feet in height. If the proposed object would be more than ~~one~~ two hundred ~~and fifty~~ (150200) feet above ground level at its location. (11-28-90)(7-1-05)T

b. Near an established airport or seaplane base. If the proposed object would be within twenty thousand (20,000) feet of an airport (*) or seaplane base with more than three thousand two hundred (3,200) feet in length; and would exceed one (1) foot in height for each one hundred (100) feet (100:1) horizontally from the nearest point of the nearest runway. * To qualify, an airport as defined in Section 21-101(c), Idaho Code, must be listed in the Idaho Airport Facilities Directory, or in the Airport /Facility Directory published by the US-DOT, National Charting Office or operated by a public entity. (11-28-90)(7-1-05)T

TRANSPORTATION

IDAHO TRANSPORTATION DEPARTMENT
Rules Governing Marking of Hazards to Air Flight**Docket No. 39-0402-0501**
PENDING RULE

c. If the proposed object would be within ten thousand (10,000) feet of an airport having no runway more than three thousand two hundred (3,200) feet in length; and would exceed one (1) foot in height for each fifty (50) feet (50:1) horizontally from the nearest runway.

(11-28-90)

d. Near a Heliport. If the proposed object would be within five thousand (5,000) feet of a heliport listed in the "Airport Facilities Directory" or operated by a public entity; and would exceed one (1) foot in height for each twenty-five (25) feet (25:1), horizontally from the nearest landing and take-off area of that heliport. ~~**To qualify, an airport as defined in Section 21-101(c), Idaho Code, must be listed in the Idaho Airport Facilities Directory, or in the "Airport Director" of the current Airman's Information Manual or operated by a public entity.*~~

~~(11-28-90)~~(7-1-05)T

e. Highways and Railroads. If the proposed object is a traverse way which would exceed at least one (1) of the standards listed in Subsections 100.04.a. through 100.04.c. above, after its height is adjusted upward seventeen (17) feet for an Interstate Highway, fifteen (15) feet for any other public roadway, ten (10) feet (or the height of the highest mobile objects that would normally traverse the road) for a private road, twenty-three (23) feet for a railroad, or an amount equal to the height of the highest mobile objects that would traverse a waterway or any other thoroughfare not previously mentioned.

(11-28-90)

05. Notice Submittal. The notice required under Subsection 100.04 of this rule must be submitted:

(1-2-93))

a. At least thirty (30) days before the construction or alteration is to begin; or the application for construction permit is to be filed.

(11-28-90)

b. Immediately by telephone or other expeditious means, with written notification submitted within five (5) days thereafter, if immediate construction or alteration is required as in cases involving public services, health, or safety.

(1-2-93))

06. Notice of Proposed Construction. A notice of proposed construction or alteration is required so that the State Transportation Board may:

(11-28-90)

a. Depict obstructions on aeronautical charts.

(11-28-90)

b. Recommend appropriate markings as required by Section 21-515, Idaho Code.

(11-28-90)

c. Be made aware of potential aeronautical hazards in order to minimize their danger to the flying public.

(11-28-90)

d. Protect the lives and property of persons in the air and on the ground.

(11-28-90)

07. Submittal of Notice. Notice must be given in writing of intended construction or alteration to the Aeronautics Division Administrator, 3483 Rickenbacker Street, Boise, Idaho 83705.

(1-2-93)